



Montoya, Darlene <dmontoya@nmag.gov>

Officer-Involved Shooting and other use of force incident (POLICY AND PROCEDURES)

4 messages

Joe Portio <dexterpolice@yahoo.com>
Reply-To: Joe Portio <dexterpolice@yahoo.com>
To: Darlene Montoya <dmontoya@nmag.gov>

Mon, Jan 30, 2017 at 9:19 AM

Good morning Darlene,

Attached are the policies and procedures for officer involved shootings.

Have a great day!

*Megan Battle
Administration Assistant
Dexter Police Department
(575)734-5404 Phone
(575) 734-5408 Fax
dexterpolice@yahoo.com*

 [policy and procedures.pdf](#)
1493K

Montoya, Darlene <dmontoya@nmag.gov>
To: Joe Portio <dexterpolice@yahoo.com>

Tue, Jan 31, 2017 at 11:04 AM

Thank you for the SOPs. A couple of other things the LEAB Subcommittee wanted to know was how often these policies are reviewed and/or revised, and how often officers receive training on them. Please let me know via email and I will print your response and attach to the SOP.

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Darlene Montoya, Administrator
New Mexico Attorney General's Office
408 Galisteo Street
Santa Fe, New Mexico 87501
(505) 490-4854

Joe Portio <dexterpolice@yahoo.com>
Reply-To: Joe Portio <dexterpolice@yahoo.com>
To: "Montoya, Darlene" <dmontoya@nmag.gov>

Wed, Feb 1, 2017 at 8:24 AM

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Have a great day!

Megan Battle
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(505) 490-4854

Montoya, Darlene <dmontoya@nmag.gov>
To: Joe Portio <dexterpolice@yahoo.com>

Wed, Feb 1, 2017 at 8:35 AM

Thank you. Have a wonderful day and stay safe.

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DEXTER POLICE DEPARTMENT

Use Of Deadly Force

1 of 4 pages

It is the policy of the DEXTER POLICE DEPARTMENT that all members, to include Reserve Officers, shall never use more force than is absolutely necessary to protect life and property and effect an arrest.

DEADLY FORCE DEFINED:

That force which is intended to cause death or great bodily harm or which creates some specified degree of risk that a reasonable and prudent person would consider likely to cause death or grave injury.

It is understood by the DEXTER POLICE DEPARTMENT that when a situation calls for the use of Deadly Force, that a great deal of variables may be involved and that not all issues can be covered in a policy on the use of Deadly Force. However, it is felt that the use of the following guidelines will aid the members of the DEXTER POLICE DEPARTMENT in their decisions when use "DEADLY FORCE".

1. ABILITY: Refers to the means by which the suspect can inflict serious injury or death. It may be a gun or any other weapon.
2. OPPORTUNITY: Refers to the situation being one in which the suspect is physically able to employ his weapon in a manner which is likely to inflict serious injury or death. Opportunity can also relate to the distance between the officer and suspect. Given that ability an opportunity exist.
3. JEOPARDY: Means that you have a reasonably concluded that the suspect intends to seriously injure or kill you and that he will unless you take immediate action.

"DEADLY FORCE" may also be used when the officer has determined that another person in the immediate area meets the guidelines of Ability, Opportunity and Jeopardy.

GREAT BODILY HARM DEFINED:

1. Major broken bone
2. Gaping, widely opened or separated wound.
3. Damage to internal organs.

USE OF DEADLY FORCE IN AN ESCAPE ATTEMPT:

Even though an officer is forced with a fleeing felon situation, in order for him to be justified in using deadly force, the criteria of ability, opportunity, and immediate jeopardy must also be present.

AMENDED 12/90

ANIMALS:

The killing of animals is justified when:

1. Self-defense
2. To prevent substantial harm to the officer or another.
3. When the animal is so badly injured that humanity requires its relief from further suffering.

MOVING VEHICLES:

Officers shall not discharge a firearm at or from a moving vehicle except as the ultimate measure of self-defense or when the suspect is using Deadly Force by means other than the vehicle itself.

LEGAL DISCLAIMER:

It shall be the policy of the DEXTER POLICE DEPARTMENT that if any member is involved in any use of force, Deadly or other force, that the Officer will ~~NOT~~ disclose any information about the incident other than to the CHIEF, or Supervisor and the attorney representing the Department or the Officer. If any information is requested by outside agencies, attorneys, news media, it must first be cleared by the CHIEF, the attorneys for the Department or such persons designated by the Chief to have authority to release information.

In all situations, members shall use force only when necessary and fully justified by circumstances. They are not to restrict in the lawful discharge of their duties and have a positive duty to use reasonable force when the necessity exists. However, members of the department shall refrain from using unnecessary force in the performance of their duty, and must not strike a prisoner or any other person except when necessary in self-defense, the defense of others, or to overcome actual physical resistance in making an arrest. Force is never to be applied out of anger or as punishment by a member of this department.

Officers must be firm, resolute, and energetic in exercising the means to properly perform his or her duty, and shall employ defensive and control techniques, including the use of department issued, approved equipment and devices. Cowardice will not be condoned. Officers are not required to desist in their efforts to make a lawful arrest when resistance is encountered.

Members of this Department will only carry weapons that have been issued by this department. The use of any other type of weapons must be approved by the CHIEF or any member of the department the Chief gives authority to approve policy on weapons. No alterations can be made on department weapons. Any malfunctions of these weapons will be reported immediately and the Officer will turn in the weapon, which will be repaired by a qualified gunsmith. Officers will only carry department issued ammunition in issued firearms.

USE OF FIREARMS:

The policy of this department is that members shall exhaust every other reasonable means to protect life and property or to effect apprehension before resorting to the use of firearms.

Armed members of the DEXTER POLICE DEPARTMENT shall not discharge firearms in the performance of their duties, except during authorized target practice at an approved range, or under the following limited circumstances and after all other means fail:

1. In the necessary defense, from death or serious injury, of another person being attacked.
2. In the defense of himself from death or serious injury when attacked.
3. To kill a critically wounded or dangerous animal when other disposition is impractical.
4. Any other possible instance in which the conscience of a reasonably prudent man would dictate the use of firearms as a last resort.

UNAUTHORIZED USE OF FIREARMS:

1. If a fleeing person has committed, is committing, or is about to commit an act which may or may not be a felony, the Officer shall ~~not~~ ~~fire~~ at such a person as the risk of possible liability for the use of excessive force far out weighs the necessity of permitting the escape of such a person.
2. Firearms will not be used to fire warning shots.

NOTIFICATION AND REPORT OF OTHER THAN ORDINARY FORCE:

1. When other than ordinary physical force has been used to accomplish his or her duty, an Officer shall make an oral report to his or her supervisor as soon as possible, and in all cases where force has been used, shall include all of the details regarding the use of force in his or her report.

INVESTIGATION OF OTHER THAN ORDINARY FORCE :

1. All reports of other than ordinary force or of questionable force will be investigated by the Chief or a designated Officer, or outside agency, i.e. NMSP or Sheriffs Office.
2. Any use of force that is deemed unnecessary for any reason will result in disciplinary action.

PROCEDURE TO BE USED WHEN FIREARM IS DISCHARGED:

1. Whenever an Officer of the department discharges a firearm either accidentally, or in the performance of the Department's duties, he or she shall verbally notify their immediate supervisor or the Police Chief as soon as time and circumstances permit, but in no event later than the conclusion of his/her duty tour. The supervisor or Officer will notify the Police Chief if any injury is involved because of the firearm discharge by the department member.

2. The officer who discharged the firearm shall file a written report of the incident with the Chief within eight (8) hours of the incident unless hospitalized or injured and unable to do so. If the Officers is unable to write the report, the supervisor will write the report.
3. Each discharge of a firearm will be investigated by the Chief or designated Officer.
4. When the discharge of firearm has resulted in personal injury or death the District Attorneys Office or the New Mexico State Police Investigation unit will be requested to investigate the incident.
5. Any discharge of a firearm deemed to be unauthorized for any such reason will result in disciplinary action.